DEVO		PATENT APPL	<u>ICATION</u>	
(), (3)	in the united	STATES PATENT	AND TRADEMARK OFFI	CE
DEC 2 1 1999	a distribution of the state of		520 Rec'd PCT/PTO Office of the Deputy Assista Commissioner for Patents	2 1 DEC 1999
Appl	nt: DePoorter et al)	Office of the Deputy Assista	ınt
PIENT & TRADE	y)	Commissioner for Patents	RECEIVED
Appl	n No.: <u>Unassigned</u> (U.S.	National)	•	
	Stage of PCT/US	98/06854))	OFFICE OF PETITIONS	23 FEB 2000
Filed	:)	Crystal Park One	Legal Staff
		ì	Suite 520	International Phyleige
,For:	Patch Bag Having Through Patches	g Seal)) A	Horney Docket No.: D-4	127/6-01 WO

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT UNINTENTIONALLY ABANDONED UNDER 37 CFR 1.137(b)

Box DAC Assistant Commissioner for Patents Washington, DC 20231

Sir:

The above-identified application became abandoned for failure to complete the requirements of 35 USC 371(c) within the time period set in 37 CFR 1.495(b). More specifically, the above-identified application is the national stage of an international PCT application for which entry into the United States should have been completed by 30 months from the priority date, i.e., by 30 months from the filing on April 4, 1997 of U.S. provisional application number 60/042,664. More specifically, this application should have been filed by October 4, 1999. This application had therefore become abandoned on October 4, 1999.

Applicants hereby petition for revival of this application.

(1) Attached to this Petition are all necessary documents for completing the filing of this application, i.e., for completing entry into the United States of PCT application PCT/US97/16522;

430 Rec'd T/PTO 2 1 DEC 1999

- Please charge Deposit Account No. 07/1765 in the amount of \$1210.00 for the Petition Fee, pursuant to 37 CFR 1.17(m), large entity, and any other fees that may be required;
- (3) The entire delay in filing the required reply or other required action, from the due date for the reply or other action, until the filing of a grantable petition pursuant to paragraph 37 CFR 1.137(b) was unintentional.

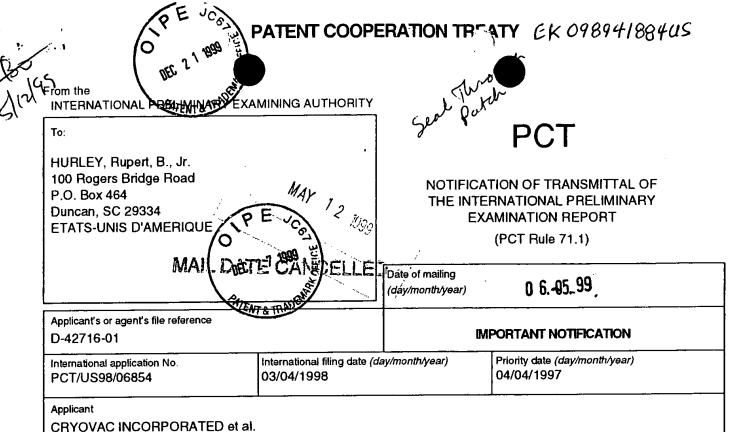
In summary, Applicant hereby petitions for the late acceptance of the application papers for entry into the U.S. national stage of PCT/US98/06854 and the revival of this application as having become unintentionally abandoned.

Any comments or questions can be directed to Applicants' undersigned attorney at telephone number (864) 433-3247.

Respectfully submitted,

Rupert B. Hurley Jr. Registration No. 29,313

December 21, 1999 CRYOVAC, INC. P. O. Box 464 Duncan, SC 29334 (864) 433-3247



- The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
- 2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
- Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.

4. REMINDER

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/IB/301).

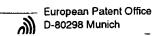
Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

Name and mailing address of the IPEA/

Authorized officer

Loeper, S









PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

	(, ,			
Applicant's or agent's file reference			tion of Transmittal of International	
D-42716-01	FOR FURTHER ACT	HON Preliminary	Examination Report (Form PCT/IPEA/416)	
International application No.	International filing date (da	ay/month/year)	Priority date (day/month/year)	
PCT/US98/06854	03/04/1998		04/04/1997]
International Patent Classification (IPC) or na B65D75/00	tional classification and IPC			
Applicant				\neg
CRYOVAC INCORPORATED et al.				ı
				믁
This international preliminary exam and is transmitted to the applicant a	ination report has been p	repared by this Inte	rnational Preliminary Examining Authority	y [
and is transmitted to the applicant	according to Artiolo 50.	•		
2. This REPORT consists of a total of	6 sheets including this	cover sheet		
2. This REPORT consists of a total of	o sileets, including this	COVER STILL		-
This report is also accompanie been amended and are the bas (see Rule 70.16 and Section 6)	sis for this report and/or s	heets containing re	n, claims and/or drawings which have otifications made before this Authority e PCT).	
These annexes consist of a total of	sheets			I
These aimexes consist of a total of	51100101			Ì
This report contains indications relations	ating to the following item	s:		
l Basis of the report				
II Priority				
•	pinion with regard to nov	elty, inventive step	and industrial applicability	
IV 🔲 Lack of unity of invention				
V ☒ Reasoned statement u citations and explanation	nder Article 35(2) with reg ons suporting such stater	gard to novelty, inve ment	ntive step or industrial applicability;	
VI 🔲 Certain documents cite	ed			- 1
VII 🛛 Certain defects in the i	nternational application			- 1
VIII 🛛 Certain observations o	n the international applica	ation		
Date of submission of the demand		Date of completion of	this report	
			0 6. 05. 99	
03/11/1998			0 0, 05, 25	
Name and mailing address of the international	al	Authorized officer	JA SOUS MITTER	\Box

Felgenhauer, H-P

preliminary examining authority:

European Patent Office D-80298 Munich



International application No. PCT/US98/06854

I. Basis of the report

1. This report has been drawn on the basis of (substitute sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.):

	Des	cription, pages:	•			
	1-29)	as originally filed			
	Cla	ims, No.:				
	1-23	3	as originally filed			
	Dra	wings, sheets:	·			÷
	1/6-	6/6	as originally filed			
2.	The	amendments have	resulted in the cancellation of:			4. 3 ° 1
		the description,	pages:			
		the claims,	Nos.:			·
		the drawings,	sheets:			
3.		This report has be considered to go l	en established as if (some of) the amendm beyond the disclosure as filed (Rule 70.2(c)	ents had not been ma):	ade, since	they have beer
4.	Ado	litional observation	s, if necessary:			



International application No. PCT/US98/06854

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Yes:

Claims 1 - 23

No: Claims

Inventive step (IS)

Yes:

Claims 21, 22

No:

Claims 1 - 20, 23

Industrial applicability (IA)

Yes:

Claims 1 - 23

No:

Claims

2. Citations and explanations

see separate sheet

VII. Certain defects in the international application

The following defects in the form or contents of the international application have been noted:

see separate sheet

VIII. Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

INTERNATIONAL PRELIMINARY

EXAMINATION REPORT - SEPARATE SHEET

To section V

The following documents are considered: 1.

D1....GB-A-2 291 402

D2.....WO-A-96 00688.

- The application does not meet the requirements of Article 84 EPC, because 2. claims 1, 2 and 14 are not clear as indicated in section VIII.
- Furthermore as indicated in connection with the lack of clarity in section VIII, 3. paragraphs 1.1 and 1.2, insofar as the present text can be understood, the subject-matters of claims 1 and 14 do not involve an inventive step, and therefore do not satisfy the criterion set forth in Article 33(3) PCT.
- An independent product and method claim clarified as indicated in section VIII 4. should satisfy the requirements of Article 33 (2) and (3) PCT since none of the available documents gives an indication leading to a patch bag having only one seal extending through the sides of the bag as well as the patch(es) such that under the conditions/parameters to be defined - the seal has the desired strength as e.g. defined in claim 2.
- The additional features of claims 3 13 do not define the parameters required to 5. clearly define the subject-matter of claim 1 or claim 2. Since they furthermore relate to properties coming, depending on circumstances, within regular design practice they cannot be considered as satisfying the requirement of Article 33 (3) PCT. This applies correspondingly with regard to claims 15 - 20 and 23.
- The process parameters defined within claims 21, 22 are, within the process 6. according to claim 14, not suggested by the prior art such that, in combination (due to reasons of clarity, cf. section VIII), claims 21, 22 should satisfy the requirement of Article 33 (2) and (3) PCT.

To section VII

The independent claims have not been properly cast in the two-part form (Rule 1.1



- 6.3 (b) PCT), starting e.g. from D1.
- 1.2 Reference signs in parentheses should have been inserted in the claims to increase their intelligibility, Rule 6.2(b) PCT. This applies to both the preamble and characterising portion.
- 1.3 To meet the requirements of Rule 5.1(a)(ii) PCT, the documents D1 and D2 should have been identified in the description and the relevant background art disclosed therein should have been briefly discussed.
- 1.5 The units inch, psi, °F, mils expressed on pages 1 6, 16, 17, 20, 22, 26 and the claims do not meet the requirements of Rule 10.1 (a, b) PCT and should have been replaced by the appropriate SI units. The present expressions should, however, have been retained in parentheses after the replacement expressions.
- 1.7 Within the figures reference numerals (cf. e.g. the figures as filed with the application) are missing.

To section VIII

1.1 Claim 1 is not clear (Article 6 PCT) since it is not clearly indicated under which conditions (e.g. material of the bag and patches; parameters of heat sealing etc; cf. claims 21, 22) the only seal is provided on the end seal bag. Cf. D1, page 2, line 25 - page 3, line 2, where it is indicated that "sealing by passing heat through one or more patches is undesirable because such seals are not as strong as seals made through the bag alone".

Thus a clear definition of the subject-matter of claim 1, and also to distinguish claim 1 clearly from the prior art attempt disclosed in D1, requires that the parameters which - contrary to the known approach - make it possible that the only seal provided, which goes through the patch(es) as well as both sides of the bag, has the required strength (e.g. as defined in claim 2).

Definition of these parameters is also required in order that the problem (cf. page 1, lines 21 - 25) is solved. For this problem being solved it furthermore is required **EXAMINATION REPORT - SEPARATE SHEET**

that within claim 1 the strength of the seal is defined as it is the case for claim 2 (cf. also page 1, lines 29 - 32).

- 1.2 Without the clear definition referred to above the subject-matter of claim 1 needs to be considered as being obvious in view of the (unsuccessful) approach disclosed in D1, since the teaching of present claim 1 essentially does not go beyond the description of the unsuccessful attempt in D1 (page 2, line 29 - page 3, line 2). This applies for corresponding reasons with regard to claims 2 and 14.
- 1.3 Claims 2 and 14 are unclear for reasons corresponding to the ones given with respect to claim 1 and furthermore since, contrary to claim 1, the essential feature is missing according to which the seal referred to is the only one (cf. page 1, lines 21 - 25; page 2, lines 6, 7).
- 1.4 Claim 14 furthermore is unclear since contrary to the subject-matter of claim 1 and of claim 2 essential material properties are missing, according to which the tubular bag film as well as the patch film are heat-shrinkable.
- 1.5 The additional features of claim 15: provision of a first and a second sealing bar as means for heating, appear as being essential for the process according to claim 14 and are thus missing in this claim.
- The general statement in the description at page 29, lines 23 27 (reference to 2. "principles" of the invention) is not clear, and when used to interpret the claims renders them also unclear, contrary to Article 6 PCT.

PATENT COOPER	ATION TREA. YEKO9894188405 -
	OLP
From the INTERNATIONAL SEARCHING AUTHORITY	PCT
LAGALY, WASATONIC, QUATT, HURLEY , JR., BURLESON 100 Rogers Bridge Road P.O. Box 464 Duncan, SC 29334 UNITED STATES OF AMERICA MAIL LATE CARCE	OF THE NTERNATIONAL SEARCH REPORT OR THE DECLARATION (PCT Rule 44.1)
CATENT & TRAJECTO	Date of mailing (day/month/year) 24/08/1998
Applicant's or agent's file reference 42716/PCT	FOR FURTHER ACTION See paragraphs 1 and 4 below
International application No.	International filing date
PCT/US 98/06854	(day/month/year) 03/04/1998
Applicant	
CRYOVAC INCORPORATED et al.	
The applicant is hereby notified that the International Search Filing of amendments and statement under Article 19 The applicant is entitled, if he so wishes, toamend the claim When? The time limit for filing such amendments is norma International Search Report; however, for more de Where? Directly to the International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Fascimile No.: (41-22) 740.14.35	s of the International Application (see Rule 46):
For more detailed instructions, see the notes on the accordance	mpanying sheet.
2. The applicant is hereby notified that no International Search Article 17(2)(a) to that effect is transmitted herewith.	Report will be established and that the declaration under
3. With regard to the protest against payment of (an) addition	nal fee(s) under Rule 40.2, the applicant is notified that:
the protest together with the decision thereon has beer	transmitted to the International Bureau together with the test and the decision thereon to the designated Offices.
no decision has been made yet on the protest; the app	licant will be notified as soon as a decision is made.
4. Further action(s): The applicant is reminded of the following:	
Shortly after 18 months from the priority date, the international ap If the applicant wishes to avoid or postpone publication, a notice priority claim, must reach the International Bureau as provided is completion of the technical preparations for international publica	of withdrawal of the international application, or of the n Rules 90 <i>bis</i> .1 and 90 <i>bis</i> .3, respectively, before the
Within 19 months from the priority date, a demand for international wishes to postpone the entry into the national phase until 30 months.	al preliminary examination must be filed if the applicant or the priority date (in some Offices even later).
Within 20 months from the priority date, the applicant must perfor before all designated Offices which have not been elected in the priority date or could not be elected because they are not bound	demand or in a later election within 19 months from the
Name and mailing address of the International Searching Authority	Authorized officer
European Patent Office, P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, ———— Fax: (+31-70) 340-3016	John Berry

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirement that Treaty, the Patent Cooperation Treaty, the Regulations a Administrative Instructions under that Treaty. In case of discretions between these Notes and those requirements, the applicable of the Po-Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international phylication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the International application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been its filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

The letter must indicate, he differences between the claims as filed and the constant as as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled:
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

- [Where originally there were 48 claims and after amendment of some claims there are 51]:
 Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added.
- Where originally there were 15 claims and after amendment of all claims there are 11]: "Claims 1 to 15 replaced by amended claims 1 to 11."
- [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
 "Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
 - "Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added."
 "Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
- 4. [Where various kinds of amendments are made]: "Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international appplication is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the same time of filing the amendments with the International Bureau, also file a copy of such amendments with the International Preliminary Examining Authority (see Rule 62.2(a), first sentence).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, where upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide

PCT



(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file refe	rence F(OR FURTHER		f Transmittal of International Search Report 20) as well as, where applicable, item 5 below.
International application No.	Intern	ational filing date (d	lay/month/year)	(Earliest) Priority Date (day/month/year)
PCT/US 98/06854		03/04/1	998	04/04/1997
Applicant				0110111221
CRYOVAC INCORPORA	TFN ot al			
CKTOVAC TREORI OKA	IEU et ai.			
This International Search Re according to Article 18. A co	port has been prepar py is being transmitte	ed by this Internation d to the Internation	onal Searching Auth at Bureau.	nority and is transmitted to the applicant
This International Search Re	eport consists of a tota		sheets. t cited in this report.	
1. Certain claims we	ere found unsearcha	ible(see Box I).		
2. Unity of invention	is lacking(see Box	II).		
3. The international a international search	h was carried out on t	the basis of the seq	uence listing	acid sequence listing and the
	=	e international appli		
,			rately from the inter	•••
				e effect that it did not include international application as filed.
	Transcribed	by this Authority		
4. With regard to the title,	T the text is an	oproved as submitte	ed by the applicant	
	=		y this Authority to re-	ad as follows:
5. With regard to the abstra	act,			
	the text is ac	proved as submitte	ed by the applicant	
	Box III. The	applicant may, with	according to Rule 38 in one month fromth ts to this Authority.	.2(b), by this Authority as it appears in ne date of mailing of this International
6. The figure of the drawing	gs to be published wit	h the abstract is:		
Figure No1	χ as suggested	d by the applicant.		None of the figures.
	because the	applicant failed to s	suggest a figure.	
	because this	figure better chara	cterizes the inventio	n.

Box III TEXT OF THE ABSTRACT (Continuation of item 5 of the first sheet)

Modifications in the following lines of the text:
3. ...patch bag (14)... ...film (18)...
4. ...heat-shrinkable patch (22)...
5. ...seal (26)...

A. CLASSI IPC 6	FICATION OF SUBJECT MATTER B65D75/00 B65D75/26		
According to	o International Patent Classific (IPC) or to both national classifier	cation and IPC	
B. FIELDS	SEARCHED		
Minimum do IPC 6	cumentation searched (classification system followed by classificat $B650$	ion symbols)	
Documental	ion searched other than minimum documentation to the extent that s	such documents are included in the fields sea	arched
Electronic d	ata base consulted during the international search (name of data ba	ase and, where practical, search terms used)	
C. DOCUMI	ENTS CONSIDERED TO BE RELEVANT		
Category s	Citation of document, with indication, where appropriate, of the rel	evant passages	Relevant to claim No.
Α	GB 2 291 402 A (GRACE W R & CO) 1996	24 January	1-23
	see abstract; claims; figures see page 38, line 26 - page 39, see page 23, line 25 - page 25, see page 37, line 24 - page 38,	line 12	
A	WO 96 00688 A (GRACE W R & CO) 11 January 1-14 1996 see page 19, line 1 - page 20, line 7;		1-14
	claims; figures	, ,	
		·	
Furth	er documents are listed in the continuation of box C.	X Patent family members are listed in	ı annex.
	egories of cited documents :	"T" later document published after the inter- or priority date and not in conflict with t	
conside	nt defining the general state of the art which is not ared to be of particular relevance	cited to understand the principle or the invention	
filing da		"X" document of particular relevance; the clicannot be considered novel or cannot be considered	be considered to
which i	nt which may throw doubts on priority claim(s) or s cited to establish the publicationdate of another or other special reason (as specified)	involve an inventive step when the doc "Y" document of particular relevance; the cl cannot be considered to involve an inv	almed invention
"O" docume other m	nt referring to an oral disclosure, use, exhibition or seans	document is combined with one or mor ments, such combination being obvious	e other such docu-
"P" docume later th	nt published prior to the international filing date but an the priority date claimed	in the art. "&" document member of the same patent for	amily
Date of the a	ctual completion of theinternational search	Date of mailing of the international search	ch report
14	August 1998	24/08/1998	
Name and m	ailing address of the ISA European Patent Office, P.B. 5818 Patentlaan 2	Authorized officer	
	NL - 2280 HV Rijswijk Tel. (+31-70) 340-2040, Tx. 31 651 epo nl, Fax: (+31-70) 340-3016	SERRANO GALARRAGA,	J

Patent document cited in search report	t	Publication date		Patent family member(s)	Publication date	
GB 2291402	A	24-01-1996	US AU CA DE FR	5545 2509 A 2154240 A 19527800 A 2722763 A	13-08-1996 01-02-1996 22-01-1996 04-04-1996 26-01-1996	
WO 9600688	Α	11-01-1996	AU BR CA EP	2952295 A 9508136 A 2193982 A 0766635 A	25-01-1996 25-11-1997 11-01-1996 09-04-1997	